IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3070 of 1995
with
SPECIAL CIVIL APPLICATION No 3501 of 1995

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GJ DABHI & ORS

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3070 of 1995

MR BD KARIA for Petitioner No. 1-8

MR HEMANT M PRACHCHHAK, AGP for Respondent No. 1

MR HS MUNSHAW for Respondent No. 2

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 24/12/2004

ORAL JUDGEMENT

#. The petitioners of both these petitions have prayed

for issuance of an appropriate writ, order or direction, seeking to direct the respondents not to disturb or terminate the services of the petitioners and have further prayed to give appropriate direction to the respondents to regularise their services by fixing seniority and fixing pay accordingly.

#. When both these petitions came up for hearing, this Court had granted status-quo with regard to service conditions of the petitioners and subsequently the said order of ad-interim relief has been continued from time to time and ultimately, by order dated 19.9.1995, this Court had issued Rule and ad-interim relief which was granted earlier was continued till the final disposal of these petitions.

#. The main grievance of the petitioners in these petitions is about regularisation of their services and certain benefits not made available to the petitioners under the various government resolutions and circulars issued from time to time. The petitioners have prepared a statement showing details about their service record. In the said statement, it is shown that the petitioner nos.1 to 7 of the Special Civil Application No. 3070 of 1995 have rendered more than 10 years of service on the date of the filing of the petition, while the petitioner no. 8 had completed 4 years of service in the establishment of the respondent-authorities.

#. The respondent no. 2 has filed affidavit-in-reply and has opposed the claim of the petitioners for regularisation of service on the ground that the work performed by the petitioners is not of permanent nature and the schemes under which the petitioners are working namely, Small Irrigation Schemes, are of time-bound nature and no permanency factor is involved therein and, therefore, the respondents are unable to consider the case of the petitioners for regularisation of their services.

#. When these matters are called out for final hearing today, Mr. B.D. Karia, the learned advocate, appearing for the petitioners stated that barring the petitioner nos. 3 and 5 of Special Civil application No. 3070 of 1995, the other petitioners have been placed in the temporary establishment of the respondent-authorities and appropriate orders to this effect have been passed by the respondent no. 2 - Executive Engineer, Panchayat & Irrigation Department, Junagadh District Panchayat. In the said order, the respondent no. 2 has referred to the policy decision taken by the State of Gujarat vide

government resolution dated 29.9.2001 issued by the Panchayat & Rural Development Department of State of Gujarat, whereby certain posts of workcharge establishment have been converted into temporary establishment. Relying on the said government resolution dated 29.9.2001, benefits have been extended to all the petitioners of Special Civil Application No. 3070 of 1995 barring petitioner nos. 3 and 5 and so far as the petitioners of Special Civil Application No. 3501 of 1995 are concerned, both the petitioners have been given benefit of the aforesaid government resolution dated 29.9.2001 and effective order is passed by the respondent no. 2.

5.1 Therefore, according to the learned advocate for the petitioners, by and large, the grievances of the petitioners for regularisation of the services have been redressed and they have been placed in temporary establishment for granting benefits under the government resolution dated 29.9.2001. He further stated that so far as the petitioner nos. 3 and 5 of Special Civil Application No.3070 of 1995 are concerned, their claim is yet not decided and the respondent authority may be given appropriate direction to consider their case on par with other similarly situated persons and appropriate order be passed by the respondent on the basis of the government resolution dated 29.9.2001.

5.2 The last request made by the learned advocate for the petitioners is that certain benefits available to the petitioners from the date of their initial appointment including the benefits of salary and/or arrears of the salary may also be determined by the respondent authority, since the petitioners have put in number of years of service.

#. Heard the learned advocates for the parties and having perused the record of the petitions, copy of one of the orders dated 30.9.2002 passed by the respondent no. 2 qua the petitioner no. 6 of Special Civil Application No. 3070 of 1995 is ordered to be taken on record along with the government resolution dated 29.9.2001. In view of the said resolution and order dated 30.9.2002, at this stage, the subject matter of the petitions does not require further adjudication except the request made by the learned advocate for the petitioner to ventilate the grievances of the petitioners with regard to their claim of salary with regard to earlier services rendered by them. So far as the petitioners nos. 3 and 5 of Special Civil Application No. 3070 of 1995 are concerned, the respondent authority

is hereby directed to decide their claim as expeditiously as possible on the line of decision taken qua other petitioners, since the petitioners nos. 3 and 5 are also similarly situated persons.

6.1 As stated by Mr.Karia, the learned counsel for the petitioners, if petitioners of both these petitions make suitable representations regarding their genuine grievances about grant of certain benefits from the date of their initial entry into service within four weeks from the date of this order, the respondent authorities will consider their case sympathetically and in accordance with the prevalent government resolutions and guidelines in this regard.

#. With the aforesaid observations and findings, no further order is required to be passed. Rule is made absolute to the above extent only in each of the petitions. No order as to costs. Interim relief, if any, stands vacated.

[ANANT S. DAVE, J.]
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